

OGC 8-2214a

12 FEB 1958

MEMORANDUM FOR: Executive Officer, DCI

SUBJECT: Proposed Amendment of Executive Order 10501

1. I feel there are two basic points to consider in connection with the proposed amendments to Executive Order 10501. The first point is that the proposal appears to arise out of a real problem. The present Executive Order requires a determination that access to classified defense information be in the interest of "promoting the national defense." The Department of State believes it important to have certain types of research involving classified information performed under circumstances which by any orderly interpretation are not consistent with that wording. This Agency too may have a problem in this regard in that it might be questionable to determine that the book Whitney Shepardson is proposing to write on OSS will "promote the national defense," and this might raise a question as to his access to material still classified. I do not believe we should argue with State that a change is desirable so long as the change does not substantially impair our security interests.

2. This brings up the second point which is that in our opinion the changed wording in no way lessens the Director's control over classified material of the Agency. It is his determination and his alone whether access to such information is (a) in the national interest, (b) inconsistent with the national defense, and (c) whether the persons involved are trustworthy. While these determinations cover a broader scope than the determinations that access will "promote the national defense" and that the persons involved are trustworthy, it seems that the effect of the determinations is no less definitive. I do not believe, therefore, that we could validly object to the change on the grounds that it weakens our security control.

3. There are a few collateral points. It may well be that this change or any change in Executive Order 10501 will promote inquiries and requests for information. This does not in itself seem to be a valid basis for objecting to the change. The main objections by other departments and agencies to the change are that it would lead itself to broad and differing interpretations. This assumes that the responsible heads of departments and agencies may interpret the language improperly. I do not believe regulations should be written on the basis of such assumptions. The interested departments and agencies are fairly evenly divided with the Department of Defense the strongest opposer, which would be consistent with its position before the Moss Committee. Interestingly enough, at the opposite end is the very security conscious Atomic Energy Commission. Lastly, I do not believe we should get involved on the question of whether Princeton or any other institution should become a repository of microfilm copies of Department of State's papers which it wants to make available through such facilities.

LAWRENCE R. HOUSTON
General Counsel

Att-File on subject

cc: Director of Security)
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